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AMAZON.COM, INC.

13 || AMAZON.COM, INC., | Case No. 14-4561

14 Plaintiff,
15 v.
16 STRAIGHT PATH IP GROUP, INC.,
17 Defendant

**DECLARATORY
COMPLAINT**

DEMAND FOR JU

Case No. 14-4561

DECLARATORY JUDGMENT COMPLAINT

DEMAND FOR JURY TRIAL

19 Plaintiff Amazon.com, Inc. (“Amazon”) brings this action against Defendant Straight Path
20 IP Group, Inc. (“Straight Path”) and alleges as follows:

NATURE OF THE ACTION

22 1. This is a civil action seeking a declaratory judgment of non-infringement under 28
23 U.S.C. §§ 2201 and 2202.

PARTIES

2. Plaintiff Amazon is a corporation organized and existing under the laws of the state of
Delaware, with a principal place of business at 410 Terry Avenue North, Seattle, Washington
98109-5210.

3. On information and belief, Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Drive, Suite 218, Glen Allen, Virginia 23059.

JURISDICTION

4. This action arises under the Patent Laws of the United States, Title 35 of the United States Code, Sections 101 *et seq.*, and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. An actual, substantial, and continuing justiciable controversy exists between Amazon and Straight Path. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Straight Path by virtue of, *inter alia*, its filing and pursuit of currently-pending patent litigation in this district.

VENUE

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Straight Path is subject to personal jurisdiction in this district.

INTRADISTRICT ASSIGNMENT

7. Pursuant to Civil L.R. 3-2(c), divisional assignment is unnecessary because this is an intellectual property action.

GENERAL ALLEGATIONS

8. Straight Path purports to be the owner of U.S. Patent No. 6,009,469 (the “‘469 patent”), entitled “Graphical User Interface for Internet Telephony Application,” a copy of which is attached as **Exhibit A**.

9. Straight Path purports to be the owner of U.S. Patent No. 6,108,704 (the “‘704 patent”), entitled “Point-to-Point Protocol,” a copy of which is attached as **Exhibit B**.

10. Straight Path purports to be the owner of U.S. Patent No. 6,131,121 (the “121 patent”), entitled “Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses,” a copy of which is attached as **Exhibit C**.

11. Straight Path has initiated several patent infringement actions alleging that numerous entities are making, using, selling, offering to sell, and/or importing products that allegedly infringe one or more claims of the '469, '704, and '121 patents.

1 12. Straight Path has initiated several patent infringement actions in this district, includ-
2 ing an action against Apple Inc. (Case No. 3:14-cv-4302) alleging infringement of the '704 and
3 '121 patents; an action against Avaya Inc. (Case No. 3:14-cv-4309) alleging infringement of the
4 '469, '704, and '121 patents; and an action against Cisco Systems, Inc. (Case No. 3:14-cv-4312)
5 alleging infringement of the '469, '704, and '121 patents.

6 13. Straight Path has also initiated several patent infringement actions in the Eastern Dis-
7 trict of Virginia, including Case No. 1:13-cv-934 AJT/IDD, which includes allegations that LG
8 Electronics, Inc., LG Electronics USA, Inc., LG Electronics MobileComm U.S.A., Inc. (collec-
9 tively "LGE"), Toshiba Corporation, Toshiba America, Inc., Toshiba America Information Sys-
10 tems, Inc. (collectively "Toshiba"), and VIZIO, Inc. ("VIZIO") infringe one or more claims of the
11 '469, '704, and '121 patents.

12 14. Straight Path has subpoenaed Amazon in Case No. 1:12-cv-934 AJT/IDD in the East-
13 ern District of Virginia, seeking documents relating to Amazon's relationship with LGE, VIZIO,
14 and Toshiba and the inclusion of the Amazon Instant Video software application in devices pro-
15 vided by these entities.

16 15. On information and belief, Straight Path asserts that LGE directly and/or indirectly
17 infringes one or more claims of the '469, '704, and '121 patents by making, using, selling, offer-
18 ing for sale, or importing devices that include the Amazon Instant Video software application.

19 16. Pursuant to a written agreement between Amazon and LGE, LGE has requested that
20 Amazon defend, indemnify, and hold harmless LGE against Straight Path's claims of infringe-
21 ment relating to the Amazon Instant Video service and software application.

22 17. On information and belief, Straight Path asserts or intends to assert that VIZIO direct-
23 ly and/or indirectly infringes one or more claims of the '469, '704, and '121 patents by making,
24 using, selling, offering for sale, or importing devices that include the Amazon Instant Video soft-
25 ware application.

26 18. Pursuant to written agreements between Amazon and VIZIO, VIZIO has requested
27 that Amazon defend and indemnify VIZIO against Straight Path's claims of infringement relating
28 to the Amazon Instant Video service and software application.

1 19. On information and belief, Straight Path intends to assert that Toshiba directly and/or
2 indirectly infringes or infringed one or more claims of the '469, '704, and '121 patents by mak-
3 ing, using, selling, offering for sale, or importing devices that include the Amazon Instant Video
4 software application.

5 20. Straight Path has also initiated several patent infringement actions in the Eastern Dis-
6 trict of Texas, including Case No. 13-cv-606 (now consolidated with lead case 13-cv-604), which
7 includes allegations that Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and
8 Samsung Telecommunications America, LLC (collectively "Samsung") infringe one or more
9 claims of the '469, '704, and '121 patents.

10 21. Samsung includes the Amazon Instant Video software application in certain devices
11 made, used, sold, offered for sale, sold, or imported by Samsung.

12 22. Amazon has a direct and substantial interest in defeating any claims relating to the
13 Amazon Instant Video service and software application and the alleged infringement of the '469,
14 '704, and '121 patents.

15 23. Amazon denies that any of its technology, including the Amazon Instant Video ser-
16 vice and software application, infringes any claim of the '469, '704, and '121 patents.

17 24. There is an actual, substantial, and continuing justiciable controversy between Ama-
18 zon and Straight Path. Amazon and Straight Path have adverse legal interests of sufficient imme-
19 diacy and reality to warrant the issuance of a declaratory judgment regarding non-infringement of
20 the '469, '704, and '121 patents.

21 **FIRST CLAIM – DECLARATION OF NON-INFRINGEMENT ('469 PATENT)**

22 25. Amazon restates and incorporates by reference each of the allegations set forth in
23 paragraphs 1 through 24 above.

24 26. Straight Path has alleged that certain devices that include the Amazon Instant Video
25 software application infringe one or more claims of the '469 patent.

26 27. Amazon has not and does not make, use, sell, offer for sale, or import any product or
27 technology, including its Amazon Instant Video service and software application, that infringes or
28 contributes to any infringement of any claim of the '469 patent either literally or under the doc-

1 trine of equivalents. Amazon further has not and does not induce any infringement of any claim
2 of the '469 patent.

3 28. An actual and justiciable controversy exists between Amazon and Straight Path as to
4 Amazon's non-infringement of the '469 patent.

5 29. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, Ama-
6 zon seeks a declaration that it does not infringe any claim of the '469 patent.

7 **SECOND CLAIM – DECLARATION OF NON-INFRINGEMENT ('704 PATENT)**

8 30. Amazon restates and incorporates by reference each of the allegations set forth in
9 paragraphs 1 through 24 above.

10 31. Straight Path has alleged that certain devices that include the Amazon Instant Video
11 software application infringe one or more claims of the '704 patent.

12 32. Amazon has not and does not make, use, sell, offer for sale, or import any product or
13 technology, including its Amazon Instant Video service and software application, that infringes or
14 contributes to any infringement of any claim of the '704 patent either literally or under the doc-
15 trine of equivalents. Amazon further has not and does not induce any infringement of any claim
16 of the '704 patent.

17 33. An actual and justiciable controversy exists between Amazon and Straight Path as to
18 Amazon's non-infringement of the '704 patent.

19 34. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, Ama-
20 zon seeks a declaration that it does not infringe any claim of the '704 patent.

21 **THIRD CLAIM – DECLARATION OF NON-INFRINGEMENT ('121 PATENT)**

22 35. Amazon restates and incorporates by reference each of the allegations set forth in
23 paragraphs 1 through 24 above.

24 36. Straight Path has alleged that certain devices that include the Amazon Instant Video
25 software application infringe one or more claims of the '121 patent.

26 37. Amazon has not and does not make, use, sell, offer for sale, or import any product or
27 technology, including its Amazon Instant Video service and software application, that infringes or
28 contributes to any infringement of any claim of the '121 patent either literally or under the doc-

1 trine of equivalents. Amazon further has not and does not induce any infringement of any claim
2 of the '121 patent.

3 38. An actual and justiciable controversy exists between Amazon and Straight Path as to
4 Amazon's non-infringement of the '121 patent.

5 39. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, Ama-
6 zon seeks a declaration that it does not infringe any claim of the '121 patent.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Amazon respectfully requests judgment in its favor and against Straight
9 Path as follows:

10 A. A declaration that Amazon has not and does not infringe, either directly or indirectly,
11 any claim of the patents-in-suit;

12 B. An injunction against Straight Path, and all persons acting on its behalf or in concert
13 with it, restraining them from further prosecuting or instituting any action alleging that any Ama-
14 zon method, product, or technology, or others' use thereof, infringes any claim of any of the pa-
15 tents-in-suit;

16 C. A declaration that this case is exceptional and that Amazon is entitled to an award of
17 reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

18 D. Any such other and further relief as the Court may deem just and fair.

19 Dated: October 13, 2014

FENWICK & WEST LLP

20 By: /s/ J. David Hadden
21 J. David Hadden

22 Attorneys for Plaintiff
23 AMAZON.COM, INC.
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Amazon demands a jury trial on all issues so triable in this complaint.

Dated: October 13, 2014

FENWICK & WEST LLP

By: /s/ J. David Hadden
J. David Hadden

Attorneys for Plaintiff
AMAZON.COM, INC.

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW